

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARK HAGERMAN,
Plaintiff,
v.
CULINARY WORKER, et al.,
Defendants.

Case No.: 2:23-cv-01582-GMN-BNW

ORDER
(ECF Nos. 4, 4-1)

I. DISCUSSION

On October 16, 2023, the Court denied Plaintiff's application to proceed *in forma pauperis* as incomplete and directed Plaintiff to file a new fully complete application to proceed *in forma pauperis* or pay the \$402 filing fee. (ECF No. 3). In response, Plaintiff filed another incomplete application to proceed *in forma pauperis*. (ECF No. 4). Plaintiff has not submitted a six-month trust fund account statement, and the financial certificate that he attached is incomplete. (*Id.*)

The United States District Court for the District of Nevada must collect filing fees from parties initiating civil actions. 28 U.S.C. § 1914(a). The fee for filing a civil-rights action is \$402, which includes the \$350 filing fee and the \$52 administrative fee. See 28 U.S.C. § 1914(b). "Any person who is unable to prepay the fees in a civil case may apply to the court for leave to proceed *in forma pauperis*." Nev. Loc. R. Prac. LSR 1-1. For an inmate to apply for *in forma pauperis* status, the inmate must submit **all three** of the following documents to the Court: (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, which is pages 1–3 of the Court's approved form, that is properly signed by the inmate twice on page 3; (2) a completed **Financial Certificate**, which is page 4 of the Court's approved form, that is properly signed by both the inmate and a prison or jail official; and (3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period**. See 28 U.S.C. § 1915(a)(1)–(2); Nev. Loc. R. Prac. LSR 1-2. *In forma pauperis* status does not relieve an inmate of his or her

1 obligation to pay the filing fee, it just means that the inmate can pay the fee in installments.
2 See 28 U.S.C. § 1915(b).

3 Plaintiff also filed a motion stating that the Nevada Department of Corrections
4 procrastinates in producing financial records and requesting that the Court order the
5 Nevada Department of Corrections to provide him the documents to file a complete
6 application to proceed *in forma pauperis*. (ECF No. 1-1.) Plaintiff does not include any
7 details about what requests he has made for financial documents, or when he made them.
8 The Court denies Plaintiff's motion.

9 In the event Plaintiff is not able to acquire the required financial certificate and
10 inmate account statement for the previous six-month period from prison officials, Plaintiff
11 may file a declaration detailing when he requested the documents, who he spoke to about
12 the status of the documents, who he followed up with after he did not receive the
13 documents, and their responses. Plaintiff's declaration shall include dates of his requests,
14 dates of his follow-up requests, names of the prison officials that he spoke to about the
15 matter, and their responses. If Plaintiff's declaration demonstrates that he has done all
16 that was possible to acquire the documents from prison officials, the Court will consider
17 his application to proceed *in forma pauperis* complete.¹

18 II. CONCLUSION

19 For the foregoing reasons, it is ordered that Plaintiff's incomplete application to
20 proceed *in forma pauperis* (ECF No. 4) is denied without prejudice.

21 It is further ordered that Plaintiff's motion for a court order directing the Nevada
22 Department of Corrections to provide him with financial documents (ECF No. 4-1) is
23 denied without prejudice.

24 It is further ordered that the Clerk of the Court will send Plaintiff the approved form
25 application to proceed *in forma pauperis* for an inmate and instructions for the same.

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27 ¹ Plaintiff must still submit the first three pages of the application to proceed *in forma*
28 *pauperis* on this Court's approved form with his declaration. If Plaintiff does not submit the
first three pages of the application to proceed *in forma pauperis* with the declaration, the
Court will recommend dismissal of this case without prejudice for Plaintiff to open a new
case when he is able to acquire the required documents.

1 It is further ordered that, on or before, February 9, 2024, Plaintiff will either pay the
2 full \$402 filing fee or file a complete application to proceed *in forma pauperis* on this
3 Court's approved form.

4 It is further ordered that if Plaintiff is not able to obtain his financial certificate and
5 inmate account statement from prison officials, Plaintiff shall file the first three pages of the
6 application to proceed *in forma pauperis* together with a declaration detailing the efforts he
7 took to acquire the financial certificate and inmate account statement from prison officials.

8 Plaintiff is cautioned that this action will be subject to dismissal without prejudice if
9 he fails to timely comply with this order. A dismissal without prejudice allows Plaintiff to
10 refile the case with the Court, under a new case number, when he can either pay the
11 required filing fee or file a complete application to proceed in forma pauperis.

12 DATED THIS 9th day of January 2024.

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15 UNITED STATES MAGISTRATE JUDGE
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